Merced County

Pesticide Use Enforcement Program Workplan for Fiscal Year 2006/2007

Agricultural Commissioner Budgeted Staff Allocation for FY 2006/2007

1 – County Agricultural Commissioner
1 – Assistant Agricultural Commissioner
3 – Deputy Agricultural Commissioners
17 – Agricultural Biologists
4 – Typist Clerks
1 – Office Supervisor
1 – Account Clerk
1 – Automation Systems Analyst
As needed extra help staff, primarily for pest detection and standardization programs

The Assistant Agricultural Commissioner will be retiring at midyear. Recruitment is currently underway to fill this position prior to the vacancy to promote a smooth transition and minimize the impact.

Pesticide Use Enforcement Programs Resources

Including administration, supervision, inspector, technical, and clerical hours, historical utilization of staff on pesticide use enforcement programs and projection for this fiscal year are as follows [1,770 hours = 1 full time equivalent (fte)]:

FY01/02 – 14.2 PUE fte (35.1% of Departmental 40.4 total fte)
FY02/03 – 16.0 PUE fte (38.7% of Departmental 41.3 total fte)
FY03/04 – 15.3 PUE fte (33.6% of Departmental 45.6 total fte)
FY04/05 – 15.6 PUE fte (40.8% of Departmental 38.2 total fte)
FY05/06 – 15.6 PUE fte (44.9% of Departmental 34.7 total fte)

5-year average – 15.3 PUE fte (38.6% of Departmental 41.0 total fte)

Notes: FY01/02 reflects a significant shift in regular staff priority to Glassy-winged Sharpshooter inspection activities. FY03/04 reflects a significant shift in priority to Exotic Newcastle Disease Surveillance activities. Beginning the fiscal year with a full staff, and once new biologists obtain their first licenses of eligibility, the percentage of Department total f.t.e. devoted to the PUE program in FY06/07 is anticipated to increase compared to the five year average.

PUE Program Assets

- Each agricultural biologist whose primary assignment is PUE has an assigned vehicle. In addition, all PUE staff has been provided with digital cameras and wind gauges. In order to verify buffer zones, two rangefinders are available.

- Agricultural Biologist has a computer at their desk which provides full access to the restricted materials permit / operator identification number program. Also, each computer has broadband Internet access.

- There is one district office in Los Banos, with four agricultural biologists assigned to that office. This office has full capability to issue permits.

- Agricultural biologist staff has significant experience with the county. The range of experience ranges from 0 to 31 years.

- All agricultural biologists work in the PUE program to one degree or another. Six agricultural biologists have PUE as their primary assignment, and one other works the PUE program at least 50% of their time. In addition to the six PUE biologists, two new biologists were hired towards the latter part of FY05/06. They will be taking their first exams this fall. Their primary assignment will be PUE.

- Three of our agricultural biologists have obtained the deputy agricultural commissioner license of eligibility from CDFA. All three have extensive PUE experience.

- Our department has one designated bilingual agricultural biologist who is fluent in Spanish

- All agricultural biologist staff have cell phones with direct connect capability. It is through the same provider as DPR, allowing direct-connect with our enforcement branch liaison.

- Our staff automation systems analyst's expertise in the restricted materials permit and pesticide use reporting programs was recently recognized through DPR's addition of $25,000 to our Pesticide Use Reports contract. This addition is to provide statewide support to DPR's CEDTS program to upgrade CAC systems and provide outreach to pesticide applicators that are considering using the CEDTS reporting system.

Restricted Materials Permitting / Licensee Registration Program

3-Year Statistical History

	FY03/04	FY04/05	FY05/06	3-Year Average
Restricted Materials Permits Issued	1796	1797	1642	1745
Private Applicator Certifications	381	318	291	330
Notices of Intent Reviewed	7717	6410	6001	6709
Pre-Application Site Inspections	472	583	383	479
-- Percentage	6.12%	9.10%	6.38%	7.14%
Operator Identification Numbers Issued	117	94	75	95
Continuing Education Sessions	14	16	20	17
C.E. Session Private Applicator Attendance	616	384	512	504
C.E. Session Licensee Attendance	565	563	610	579
Pest Control Business Registrations	140	165	164	156
Pest Control Advisor Registrations	223	228	221	224
Pest Control Pilot Registrations	46	55	49	50
Farm Labor Contractor Registrations	85	79	80	81
Structural Operator Notifications Received	61	70	76	69

Local Conditions – Sensitive Sites

- Residences and occupied businesses near field fumigations
- Rural schools in the midst of agricultural operations
- Ag/Urban interface (mostly in the Los Banos area but an emerging issue with development associated with the new University of California campus)
- Dormant season applications to trees and vines in proximity to waterways
- Sites with a history of neighbor complaints
- Endangered species habitats
- Sensitive crops (protection of organic production)
- Groundwater protection areas (357 sections in Merced County)

Local Conditions – Cropping Patterns

- Merced County produces over 200 commodities. All areas of the county are heterogeneous in planting patterns. For workload reasons, the county is divided into five pesticide use enforcement districts with the major crops as follows:

- District 1 (Merced – Delhi – Snelling)
    - Tree crops (almond, peach, walnut, apricot); vine crops (grape, berries, kiwi); dairies and dairy support crops (silage corn, grain hay, alfalfa); poultry and egg production; rangeland (irrigated and non-irrigated); vegetable crops (sweet potato, tomato, strawberry, watermelons); nursery crop production.
    - Generally medium to large operations with considerable urban interface. Seasonal streams used during the summer to move irrigation water and the Merced River are significant environmental resources. The west part of the district has primarily leaching sections of concern for groundwater protection.

- District 2 (Merced – Le Grand – El Nido)
    - Tree crops (almond, pistachio, dried plum, walnut); vine crops (grape); dairy and dairy support crops (silage corn, grain hay, alfalfa); vegetable crops (tomato, radicchio, peppers, truck farming); nursery crop production; field crops (cotton, sugar beet, rice, grains); beef cattle; irrigated pasture and rangeland.
    - Generally small to medium size farms with significant urban interface. Much of this district has groundwater protection concerns (both leaching and run-off).

- District 3 (Dos Palos – Los Banos)
    - Field crops (cotton, grain, rice, alfalfa, sugar beets, silage corn, dried beans); vegetable crops (tomato, cantaloupe, honeydew melon); beef and sheep operations; irrigated pasture.
    - Mostly medium to very large farming operations. Only a small area in the north district with groundwater concerns from leaching. Environmental concerns are wildlife refuges, duck clubs, and significant endangered species habitat.

- District 4 (Los Banos – Santa Nella – Gustine)
    - Tree crops (almond, cherry, walnut, apricot, dried plum); vegetable crops (tomato, cantaloupe, lima bean); field crops (cotton, sugar beets, grains); dairy and dairy support crops (silage corn, grain hay, alfalfa); rangeland; wildlife areas (refuges, duck clubs).
    - Farm size runs from small to large. Significant urban interface issues. Expanding urbanization will be an issue for the foreseeable future. Wildlife refuges, state parks, and endangered species are the primary environmental concerns.

- District 5 (Merced – Stevinson – Livingston – Hilmar)
    - Dairy and dairy support crops (silage corn, grain hay, alfalfa); grapes and almonds; vegetable crops (sweet potato, watermelons, tomato, truck farms); poultry and egg production; field crops (grains, dried beans, sugar beets, cotton).
    - Mostly small to medium size farm operations. Emerging urban interface issues. Field fumigation buffer zones are a major concern near expanding rural residential areas. Environmental concerns are centered on the Merced River and wildlife refuges. Shallow surface water tables results in virtually the entire district designated for groundwater protection from leaching.

Permit and Registration Process

- Agricultural biologists on rotating office duty issue Pesticide permits, operator identification numbers, and licensee registrations. For approximately three months (December through February) we operate on an appointment basis, with up to four agricultural biologists on duty.

- Permit applicants are expected to come with updated site and vicinity maps, and anticipated pesticide needs. During the permit review process, site maps are reviewed for completeness; proposed restricted materials are compared to the commodities for any off-label concerns; sites are cross checked with groundwater protection area and endangered species maps for necessary permit conditioning; and, as time allows, pesticide use reporting compliance for the previous year is checked.

- DPR suggested permit conditions have been incorporated into Merced County Agricultural Commissioner permit conditions along with several Merced County specific permit conditions. Each new permit and permit renewal is provided copies of applicable permit conditions and the permittee signs an acknowledgement that he/she has received copies.

- Private applicator certification is handled at the same time as permit issuance. If the private applicator needs to take the examination, it is administered and scored in advance of permit review and issuance. If renewal is by continuing education, the private applicator records are checked to verify completion of minimum requirements.

- Notices of intent to use restricted materials are reviewed in a timely manner. Staff knowledge and experience is invaluable in this step to know where potential problems exist and how to customize conditions for particular jobs. Pre-application site inspections are performed when weekend duty staff is unfamiliar with the district or when district inspectors are not sure of surrounding areas. Pre-application site inspections are performed on nearly all field fumigation NOIs.

- Continuing education is a high priority in Merced County, both for our private applicators and licensees. During previous fiscal year at 22 hours of continuing education designed for private applicators in which 15 hours covered laws and regulations. There appears to be a strong

correlation between private applicators that renew their certification through continuing education and their compliance rate during monitoring and records inspections. At least six hours of laws and regulations continuing education is arranged annually for pest management update classes offered by Merced College.

FY06/07 Goals to Improve the Permit Issuance Process

Accuracy of maps and identification of sensitive sites on the maps is an ongoing concern. As mentioned before, the experience of staff is invaluable when reviewing a notice of intent when the map may not be the best. However, we recognize that this knowledge may not always be available to the person doing the NOI review.

- As with the previous year, a percentage of restricted materials permits will be reviewed in advance of the permit issuance season and permits with inadequate maps will be identified and the folder flagged to alert the permit-issuing biologist of any deficiencies. Permit holders A-H will be the focus for the 06/07 fiscal year. During permit issuance, we will continue to spend more time on reviewing the maps for accuracy.

- We will also pay close attention to dormant season applications to trees and vines in proximity to waterways for compliance with new dormant spray regulation.

- In conjunction with the permit reminder letter, emphasis will be placed on the requirement for accurate and in some cases new maps. The ability to incorporate a GIS program with the permit process in all probability is two years away.

Compliance Monitoring

3-Year Statistical History

	FY03/04	FY04/05	FY05/06	3-Year Average
INSPECTIONS				
Ag Application and Mix/Load Inspections	330	344	356	343
Field Worker Safety Inspections	80	79	82	80
Field and Commodity Fumigation Inspections	63	79	75	72
Worker Safety Headquarters Inspections	84	85	81	83
Ag Records Inspections	49	43	43	45
Structural Operator Inspections	55	100	71	75
Fiscal Year Totals	**661**	**730**	**708**	**700**
NON-COMPLIANCE FOLLOW UP				
Inspections Requiring Follow Up	31	48	88	56
Follow Up Inspections Completed	10	25	48	28
-- Percentage	32.26%	52.08%	54.55%	49.70%
INVESTIGATIONS				
Human Effect Investigations	43	19	21	28
Other Investigations	9	6	8	8

Comprehensive Inspection Plan

During fiscal year 2006/2007, Merced County will conduct inspections at or exceeding our three-year average. Continuing our emphasis from recent years, emphasis will be placed on verifying compliance with worker safety standards, field fumigation requirements, and monitoring applications in the ag/urban interface. Continue to emphasize follow up inspections for persons or businesses with prior non-compliances.

FY06/07 Goals to Improve Compliance Monitoring:

Improve corrective action to non-compliances identified through site inspections and investigations. Maintain a comprehensive inspection program to ensure inspections are conducted throughout the year and balanced throughout the five districts.

- Part of accomplishing this through better documentation of non-compliances in the place provided on the inspection form or on supplemental pages. A need to improve communication with responsible persons with the authority to make the changes necessary to correct the non-compliances

- Inspection database is now in place. Now that each biologist has a computer the next step is to make searches more accessible. This will improve the tracking of follow up inspections

especially when a biologist other than the original biologist conducts the subsequent inspection.

- Tracking of inspections will be made available to biologists at least quarterly.

Investigation Response and Reporting Improvement

Significant emphasis has been placed on improving report writing in recent years. Reports are now are much more thorough and professional. However, a few areas have been identified which could improve our investigations:

- Better complaint tracking has been accomplished with an illness/complaint log. Emphasis is placed on the higher priority investigations and efforts are made to complete them in a timely manner. Emphasis will continue to be placed on completing investigations in a timely manner. There is also still a need to streamline the process finalize the minor complaints. Plans to brainstorm with staff to create a form to handle the more frequent types of complaints.

- Investigational samples. During the past year we purchased a locking freezer that is dedicated to storing investigational samples prior to shipment to CDFA's Center for Analytical Chemistry. New staff and veteran staff need training in taking various types of samples. To accomplish this, training by the enforcement branch liaison will need to be provided.

- Improved planning during early stages of investigations. Hearing officer and advocate training would identify essential elements of potential violations to assure that necessary evidence is obtained. This training would also need to be provided.

Enforcement Response

3-Year Statistical History

	Fy03/04	FY04/05	FY05/06	3-Year Average
Compliance Actions	119	135	87	114
Civil Penalty Actions	1	6	18	8

Self-assessment of Merced County's enforcement response reveals the following:

- Agricultural biologist staff has received adequate training and has the experience in how to properly address noncompliances through appropriate compliance action. Staff completes compliance actions within acceptable time frames.

- A compliance history database was started several years ago, and all inspections, compliance actions, and civil penalty actions are being entered into the database. Compliance history reports are immediately available. This has streamlined the process of analyzing the enforcement options.

- We maintain a pesticide episode investigation log for those cases which will not be assigned a WH&S illness investigation number or a priority episode tracking number.

- We will continue to consider other enforcement options including denying restricted materials permits, licensee registrations, referral of cases to DPR, or consultation with the Merced County District Attorney for the most egregious cases.

FY06/07 Goal to Improve Enforcement Response:

Improve the timeliness of evaluating non-compliances through the Enforcement Response Policy. Staff will have to be involved in the process of writing decision reports in order to meet the proposed 30 day review requirement.

- Training of agricultural biologists in the new Pesticide Enforcement Response Policy (ERP) and how to process noncompliances through the policy to arrive at appropriate recommendations for civil penalty or compliance action. This can be accomplished through joint training provided by experienced staff and our enforcement branch liaison. Once this training is provided, staff would be guided in the process of making recommendation for action.

- More timely tracking of noncompliances and processing through the Pesticide Enforcement Response Policy has already been initiated. Will brainstorm with staff to refine and strengthened this process.

- Continue to stress the importance of informing the regulated community of the enforcement response policy/regulations. This will be accomplished through continuing education sessions and grower contact in the field.